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CITATIONS.

CASES:

STATUTES:

IN THE

Supreme Court of the United States

OCTOBER TERM, 1946.

No. 1157.

STANDARD SURETY AND CASUALTY COMPANY OF NEW YORK,
Petitioner,

v.

THE PLANTSVILLE NATIONAL BANK and
THE FEDERAL DEPOSIT INSURANCE CORPORATION, Receiver,
Respondents.

REPLY TO MEMORANDUM BRIEF OF RESPONDENTS IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI.

The question presented by this case is whether a national bank—repeatedly upheld by the Court to be an instrumentality of the United States Government—may with impunity wilfully mislead an inquiring surety company as to the credit standing of an applicant for construction bonds.

This is a federal question that highly deserves consideration by this Court.

The National Banking Act has as one of its primary purposes the protection of the public in dealing with a national banking system (Deitrick v. Greaney, 309 U. S. 194; 84 L. Ed. 694).

The National Bank Act constitutes by itself a complete system for the establishment and government of national banks. (Cook County National Bank v. United States, 107 U. S. 445; 27 L. Ed. 537).

This Honorable Court in *Awotin* v. *Atlas Exchange National Bank,* 295 U. S. 209; 79 L. Ed. 1393, said:

> "We have recently held that the traditional determination of the legal consequences which flow from acts condemned as unlawful by the National Bank Act involves decision of a federal, not a state, question."

The brief of the respondents in opposition to the petition for writ of certiorari re-inforces rather than weakens the contention of petitioner that in this case the writ should issue.

Instead of dissenting, petitioner finds itself in complete accord with the view expressed in respondents' brief, pp. 8-9:

> "Petitioner's rights, if any, and the manner of their enforcement are governed by a Federal statute (R. S. 5236; U. S. C. Title 12, Sec. 194) and although the extent and circumstances of their enforcement are left to judicial determination, they are nevertheless derived from the Federal statute and the Federal policy which implements it."

The applicable statute cited is as follows:

> "§ 194. *Dividends on adjusted claims; distribution of assets.* From time to time, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association, the comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such

> claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held. R. S. § 5236."

There are some errors of fact and illogical assumptions contained in respondents' brief in opposition. However, for present purposes it is of importance only to point out the following from page 3 of respondents' brief:

> "Respondents conceded that Sullivan's representations concerning Van Dyke's financial standing with the bank caused petitioner to write the Seaside Park and Claremont bonds (R. 90)."

CONCLUSION.

On the basis of the foregoing it is respectfully represented that the writ should issue.

Respectfully,

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